

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

DAN TATE,)	
)	
Petitioner,)	
)	
v.)	No. 4:05CV2321(SNL)
)	
ST. LOUIS JUSTICE CENTER -)	
MEDICAL STAFF, et al.,)	
)	
Respondents.)	

MEMORANDUM AND ORDER

This matter is before the Court upon the application of Dan Tate, a prisoner at the St. Louis City Justice Center (SLCJC), for leave to commence this action without prepayment of the filing fee [Doc. #1]. Also before the Court is Tate's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 [Doc. #2].

The Court notes that the § 2254 petition seeks relief for alleged violations of the Americans With Disabilities Act (ADA). Because petitioner is not challenging the validity of his conviction or sentence, but instead challenges the conditions of his confinement, the instant § 2254 petition should be dismissed for lack of subject matter jurisdiction. See Kruger v. Erickson, 77 F.3d 1071, 1073 (8th Cir. 1996). The Court also notes that petitioner has filed a § 1983 complaint alleging identical claims to those asserted in the instant action. See Tate v. St. Louis City Justice Center, No. 4:05CV2402(AGF) (E.D. Mo.). Therefore,

the instant action will be dismissed.

In accordance with the foregoing,

IT IS HEREBY ORDERED that petitioner's motion to proceed in forma pauperis [Doc. #1] is **GRANTED**.

IT IS FURTHER ORDERED that the Clerk shall not issue process or cause process to issue on the instant petition because it fails to state a claim for relief. See 28 U.S.C. § 1915(e)(2)(B).

An appropriate order shall accompany this memorandum and order.

Dated this 27th day of January, 2006.

A handwritten signature in dark ink, appearing to read "Stephen L. Limbaugh", is written over a horizontal line.

SENIOR UNITED STATES DISTRICT JUDGE